



APPROVED

**SCOTTSDALE PLANNING COMMISSION
CITY HALL KIVA
3939 NORTH DRINKWATER BOULEVARD
SCOTTSDALE, ARIZONA
JUNE 14, 2006**

REGULAR MEETING MINUTES

PRESENT: Steve Steinberg, Chairman
James Heitel, Vice-Chairman
David Barnett, Commissioner
Kevin O'Neill, Commissioner
Eric Hess, Commissioner
Jeffrey Schwartz, Commissioner
Steven Steinke, Commissioner

STAFF PRESENT: Lusia Galav
Sherry Scott
Tim Curtis
Frank Gray
Sherry Scott
Don Hadder

CALL TO ORDER

The regular meeting of the Scottsdale Planning Commission was called to order by Chairman Steinberg at 5:07 p.m.

ROLL CALL

A formal roll call confirmed members present as listed above.

MINUTES REVIEW AND APPROVAL

1. May 24, 2006 (including Study Session)

VICE-CHAIRMAN HEITEL MOVED FOR APPROVAL OF THE MAY 24, 2006, MINUTES INCLUDING THE STUDY SESSION. SECONDED BY

APPROVED 6-28-06-PC

COMMISSIONER SCHWARTZ, THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF SEVEN (7) TO ZERO (0).

CONTINUANCES

2. 14-GP-2005 McCormick Ranch Condos

Request by owner for a non-major General Plan Amendment from "Commercial" to "Urban Neighborhoods" on a 2.79+/- acre parcel located at 8301 Via Paseo del Norte.
3. 22-ZN-2005 McCormick Ranch Condos

Request by owner to rezone from Commercial Office, Planned Community District (C-O PCD) to Multiple Family District, Planned Community District (R-5 PCD) on a 2.79 +/- acre parcel located at 8301 Via Paseo del Norte.
4. 10-UP-2006 Gateway Access Area/Desert Discovery Center

Request by owner for a conditional municipal use permit for an access area for the McDowell Sonoran Preserve on 543+/- acres Environmentally Sensitive Lands (R1-10/R1-18/R1-35 ESL) zoning.

COMMISSIONER SCHWARTZ MOVED TO CONTINUE CASE 14-GP-2005 TO THE JUNE 28 MEETING, CASE 22-ZN-2005 TO THE JUNE 28 MEETING, AND 10-UP-2006 TO THE JULY 12, 2006 MEETING.

Commissioner Barnett noted a conflict with cases 14-GP-2005 and 22-ZN-2005.

COMMISSIONER SCHWARTZ MOVED TO CONTINUE CASE 14-GP-2005 AND CASE 22-ZN-2005 TO THE JUNE 28 MEETING. SECONDED BY COMMISSIONER STEINKE, THE MOTION CARRIED BY A VOTE OF SIX (6) TO ZERO (0). COMMISSIONER BARNETT WAS RECUSED.

COMMISSIONER SCHWARTZ MOVED TO CONTINUE CASE 10-UP-2006 TO THE JULY 12, 2006 MEETING. SECONDED BY COMMISSIONER STEINKE, THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF SEVEN (7) TO ZERO (0).

EXPEDITED AGENDA

8. 9-AB-2006 132nd St & Rio Verde

Request by owner to abandon a portion of the 132nd Street right-of-way located south of Rio Verde Drive and west of 132nd Street.

Mr. Williams addressed the Commission. He reviewed the details of the abandonment, noting that the Transportation Department has determined that only 35 feet would be needed to make a 70-foot roadway which would include a trail.

The Applicant has agreed to leave the portion of Rio Verde Drive originally in the application and to dedicate 75 feet of that and to dedicate a 25-foot roadway easement.

In response to an inquiry by Vice-Chairman Heitel, Mr. Williams explained that the additional abandoned property would be incorporated into the Natural Area Open Space. There will be a 75-foot right-of-way, a 25-foot roadway easement, and a public access easement that will serve as a trail for part of the regional trail system.

Mr. Howard Myers, 6631 E. Horned Owl Trail, representing Desert Property Owners Association, addressed the Commission. He noted opposition to the abandonment as well as getting a trail easement back because it would not be in the best interest of the City. It would not be reasonable to grant an abandonment until the disposition of the area is known.

Commissioner Schwartz stated that he respected Mr. Myers opinion from the conditions standpoint, but the big-picture solutions have been addressed. He recalled requesting dialogue with staff on Rio Verde plans 18 months ago; the City needs to protect not only desert with Scottsdale city limits, but also the desert just outside Scottsdale's jurisdiction. He opined that it would not be fair to hold up the abandonment at this time. He suggested that an initiation should be done to update the Trails Master Plan for the area.

Vice-Chairman Heitel requested that this item be voted on separately due to the fact that he would not be supporting it. He noted sympathy for the issues addressed by Mr. Myers regarding the environmentally sensitive areas; there is no reason to give up the land at this time.

Commissioner Barnett concurred with the comments of Vice-Chairman Heitel. He added that no information was supplied in the packets with regard to the surrounding area. He agreed with Mr. Meyers' comments, noting that he would not support the abandonment.

In response to a suggestion by Chairman Steinberg that the case be continued because the applicant was not present, Commissioner Barnett opined that the consideration should proceed because it was the Applicant's responsibility to attend.

Commissioner Hess supported Mr. Myers' comments and noted that he would not support the abandonment.

Chairman Steinberg stated that it seemed to be the consensus of the Commission that a comprehensive document depicting what had been abandoned in the area to date would be required in order to justify abandonment. Vice-Chairman Heitel clarified that the critical issue was that the area had no central plan developed.

Chairman Steinberg inquired about initiating a study. Mr. Williams reviewed the most recent abandonments and the upcoming abandonment requests for the area. Mr. Williams noted that the Transportation staff was looking at the area; however he was unsure of the degree to which they were studying it.

Vice-Chairman Heitel commended staff for taking the position of not allowing abandonments on Rio Verde. He opined that unless extenuating circumstances existed abandonments in that area should not be allowed until a plan is developed for the area.

Commissioner Schwartz suggested the Commission ask for an initiation to update the Trails Master Plan. He opined that if a footprint is not developed, cases will continue to be denied, which will impede progress.

Mr. Grant apologized for the context information not being available. He suggested that staff conduct a presentation with a status report on the overall master planning in order to obtain input from the Commission on what needs to be addressed. Chairman Steinberg opined that a document depicting the neighborhood's infrastructure would be helpful in determining whether abandonments made sense. Mr. Grant noted that staff should be prepared by the next meeting to present the information compiled by the Transportation Department regarding local area plans.

**COMMISSIONER SCHWARTZ MOVED TO DENY CASE 9-AB-2006.
SECONDED BY VICE-CHAIRMAN HEITEL,**

Commissioner Steinke recalled that during the recent presentation on abandonments it was made clear that the real basis for abandonments is what the vision for Scottsdale should be. The Planning Commission's role is to make abandonments in that context. He opined that the abandonment would be difficult to support on the basis of what was presented.

Commissioner O'Neill stated that he would have liked to have a continuance due to the lack of information in the packet; the information was not sufficient to approve or deny the case.

**THE MOTION CARRIED BY A VOTE OF SIX (6) TO ONE (1).
COMMISSIONER O'NEILL DISSENTED.**

5. 12-UP-2006 Ducati Scottsdale
Request by owner for a conditional use permit for motorcycle sales on a 35,000 +/- square feet parcel located at 14880 N. Northsight Blvd. with Highway Commercial District (C-3) zoning.
6. 4-AB-2006 Rutherford Abandonment
Request by owner to abandon the General Land Office (GLO) patent easement around the perimeter of the property located at 12652 and 12684 E. Turquoise Avenue.

9. 9-UP-2006 Scott Toyota

Request by owner to amend an existing conditional use permit for automobile sales, new and used, on a 5.2 +/- acre parcel located at 6850 E. McDowell Road with Highway Commercial District (C-3) zoning.

10. 54-ZN-1989#9 DC Ranch

Request by owner for approval of amended development standards to the existing Planned Community District with comparable zoning of Planned Neighborhood Center and Industrial Park (PCD PNC) and (PCD I-1) in conjunction with an amendment to the Development Agreement governing DC Ranch.

COMMISSIONER SCHWARTZ MOVED TO APPROVE:

CASE 12-UP-2006, BECAUSE IT MEETS THE SPECIAL USE PERMIT REQUIREMENTS,

CASE 4-AB-2006, 9-UP-2006, BECAUSE IT MEETS THE SPECIAL USE PERMIT REQUIREMENTS,

AND CASE 54-ZN-1989#9.

SECONDED BY VICE-CHAIRMAN HEITEL, THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF SEVEN (7) TO ZERO (0).

REGULAR AGENDA

7. 6-UP-2006 Kim Courtney's Swimstations

Request by owner for conditional use permit for a private/charter school (swimming school) on a 5+/- acre parcel located at 28155 N. 74th Street with Single Family Residential District, Environmentally Sensitive Lands, Foothills Overlay (R1-70 ESL FO) zoning.

Mr. Williams noted that staff was recommending approval of the application.

Lynn Lagarde, representative for the Applicant, addressed the Commission. She explained that the seasonal program emphasized water safety. The classes have been arranged into eight half-hour sessions in order to comply with parking concerns; class sizes range from 6 to 12 children. She reviewed the use permit criteria and explained how those criteria were being met.

Referring to the stipulations, Ms. Lagarde noted that the 74th Street access would be used once Dynamite was widened. Stipulation #2 needed to be corrected to state a maximum of 96 students instead of 48. She requested that the stipulation on hours be changed to reflect an 8:30 p.m. ending in order for older students requiring longer swim times to be accommodated. Commissioner Steinke suggested that the Monday through Thursday operation be stipulated.

In response to an inquiry by Commissioner Hess, Ms. Lagarde confirmed that there was no pole lighting in the area.

In response to a question by Commissioner Barnett, Ms. Lagarde explained how the number of students per day was calculated; Mr. Williams confirmed that the number listed in the stipulation was a typographical error and should be changed to 96.

Commissioner Barnett requested that a stipulation be added prohibiting starting guns and other noise making devises.

Commissioner Schwartz recalled the Commission denying cases previously that were not as integrated into a neighborhood because of the effect the business would have on the residential character. He was concerned with the impact the amount of traffic would generate in the neighborhood. He opined that allowing the school would set precedent for allowing businesses in the neighborhood. Ms. Lagarde read letters of support from the neighbors and noted commercial equestrian operations nearby. Commissioner Schwartz stated that policies implemented now will have an impact on decisions made by future Commissions. The City wants to be sure north Scottsdale retains a residential character.

In response to an inquiry by Commissioner Hess, Ms. Scott confirmed that a stipulation could be added stating that the conditional use permit would expire if the property were sold.

Commissioner Hess agreed with Commissioner Schwartz regarding setting precedents. Part of the reason a text amendment to requiring conditional use permits for any nonresidential use in residential areas has been proposed is to avoid setting precedents. It is critical that the remaining non-commercialized area in north Scottsdale be preserved.

Commissioner Hess opined that the swim school was a commercial enterprise and particular attention should be paid to the issuance of a conditional use permit; the business should be treated the same as any other commercial entity.

Ms. Lagarde clarified that parents would not be in the pool with the children.

Vice-Chairman Heitel reiterated Commissioner Hess's comments about the importance of the text amendment. He noted that he did not have a problem with the use in this case. He expressed concern about the parcel being split and inquired whether the Applicant would be comfortable with a stipulation terminating the use permit if the lot were split or sold. Ms. Lagarde confirmed that the Courtneys would not split the property; she noted that they had made a dedication to Dynamite.

Vice-Chairman Heitel opined that the most negative impact to the neighborhood is the visual impact of the parking. He would like to see specific recommendations and languages go to DR dealing with screening of the parking. Ms. Galav noted that the case would not be going before the Development Review Board. Vice-Chairman Heitel requested the Applicant present a plan for shielding the parking with landscaping.

Mr. Williams mentioned that the site plan depicted the staff suggestion for parking spaces on the property screened with vegetation. Vice-Chairman Heitel opined the parking would still be visible from Dynamite. He noted that the plan needed to be definitive in order to ensure that it was followed through with properly.

Ms. Galav suggested a parking and landscaping plan be brought back to the Planning Commission as a study session.

Commissioner Hess stated he had no problem supporting the permit with the exception of the visibility of the cars. He agreed that an extensive landscaping and parking plan would need to be presented in order to assure the parking would not be visible from Dynamite Road.

Ms. Galav noted the zoning codes, section 5.013, states that the Development Review Board approval shall be obtained for use permits. The parking issue could be taken to DR and then brought back to the Planning Commission during a study session with a staff approval. Commissioner Hess stated that he would rather have it come back to the Planning Commission than to send it to the Development Review Board.

In response to an inquiry by Commissioner O'Neill, Mr. Grant clarified that 17 parking spaces were established as an anticipated parking requirement maximum. Although there is a 12 student maximum stipulation, there are also instructors that will need to use the parking area. The goal of the parking layout was to separate the cars into groups to avoid the appearance of a parking lot. Items such as trees and boulders could define some of those areas and screen the parking. Mr. Grant suggested an alternative would be to split the parking into phases with a 10-space area and a 7-space area.

In response to a question by Commissioner O'Neill, Mr. Williams explained that the site had no more than a 20 to 25% grade change, based on the NAOS dedication.

Commissioner O'Neill expressed frustration over the fact that the neighborhood correspondence was not presented to the Commission until they arrived for the meeting; the large number made it impossible to review them all before it would be time to make a decision. He requested that in the future neighborhood information be provided ahead of time. Mr. Williams clarified that the majority of the correspondence came in the last week since the Commissioner packet was mailed out. With the exception of one, they were all in favor of the application.

Regarding setting precedence, Commissioner O'Neill opined that each case should stand on its own merit.

Commissioner Steinke opined that if this were a new application the Commission would be asking for more detail; in order to make the right decision, time and resources need to be utilized in order to put a package together that represents all of the information. He echoed Commissioner O'Neill's comments regarding

the neighbors' correspondence. He noted that it would be hard to make a responsible decision based on the information provided.

Commissioner Barnett opined that this case was the reason that the conditional use permit process was in place. He echoed his fellow Commissioners' comments regarding being able to see the parking and the amount of traffic. He suggested stipulating one tree per parking spot in order to shield the parking area. He believed the Applicant wanted to do the right thing to protect their neighborhood and noted the conditional use permit addressed the problem without setting a precedent. He agreed with Vice-Chairman Heitel's suggestion regarding a lot split or change of ownership negating the use permit.

Commissioner Schwartz requested that in the future staff organize the letters sent in from the public. He noted that many of the letters contained in the packet were not from people in the neighborhood or even living in the state.

Mr. Howard Myers, 6631 East Horned Owl Trail representing Desert Property Owners Association, addressed the Commission. He noted that he was not speaking in opposition or support of the case. He requested that the Commission take into consideration the fact that the surrounding properties that would be most affected by the business operations had not been developed. Mr. Myers explained potential traffic problems accessing Dynamite Road and suggested considering how traffic will get on and off of the road, along with the already stipulated requirement to use 78th Street. He hoped that assurances would be made to minimize the impact on local neighbors as well as people using Dynamite.

Gerald Salko addressed the Commission. He lives directly across Dynamite from the Courtneys and spoke in support of the application.

Jerry Schaffer addressed the Commission. He spoke in favor of the application, noting the benefits the school offers to the community.

Anne Burton, 7422 East Glenmore Road, addressed the Commission. She spoke in favor of the application, noting the benefits to the community.

Susan Parker reviewed the concerns of the Commission. She noted that her children attend the school and spoke in favor of the application.

Kirk Parker commented that he appreciated the sincerity of the Commission in their approach to the application. He spoke in favor of the application and offered to help with planting if trees were stipulated.

Chris Garberding Siler addressed the Commission. She noted that her child was a student at the swim school and spoke in favor of the application.

Ms. Scott clarified that if the board were inclined, the easiest way to address the concerns raised by Vice-Chairman Heitel would be to include a stipulation requiring the approval and review of a parking and landscaping plan to go to the Development Review Board to further decrease the impacts of this use on the residential neighborhood.

Vice-Chairman Heitel opined that the parking and landscaping plan could come back to the Planning Commission during a study session and be staff-approved prior to going to City Council.

In response to concerns of supporters of the application, Commissioner Hess clarified that no one on the Commission was opposed to the nature of the project or the benefits of the work done by the Courtneys; they appreciate that lives are saved by a swimming school and that it is beneficial for the community. The responsibility of the Planning Commission to make sure the planning and zoning regulations of the community are enforced and expand and improve them in positive ways. He noted that any way it is looked at, this application was for a commercial enterprise, it is not a residential use. He supported Vice-Chairman Heitel's request for the parking and landscaping plan to return to a Planning Commission study session.

Ms. Lagarde requested the stipulation for four days be amended to include a make-up day in the event of monsoons.

In response to a question by Commissioner O'Neill, Ms. Lagarde explained that once the Courtneys discovered they were in violation and applied for a conditional use permit, they were issued a stay of enforcement for operation; the business is able to operate during the hearing process.

In response to a question from Commissioner Steinke, Mr. Williams explained that the Applicant responded to the parking citation they were issued by applying for the conditional use permit. Mr. Williams opined it may be difficult for the Applicant to acquire a professional landscape plan within a week in time to be included with the Commissioner Packet for the next meeting. It was the consensus of the Commissioners that their packets could be supplemented at the time of the meeting in two weeks.

Commissioner Barnett suggested that the landscape plan did not need to come back to the Commission because it could be included as a stipulation for review at City Council.

Commissioner Schwartz stated that he would support the a motion, but believed they were setting a double standard. Other institutions with similar uses have been denied because of traffic encumbrances that were less detrimental to a neighborhood. The same set of standards should be set for everyone and that should be considered policy.

COMMISSIONER BARNETT MOVED TO APPROVE 6-UP-2006 ASSUMING IT MEETS THE CONDITIONAL USE PERMIT CRITERIA WITH SOME AMENDMENTS TO THE STIPULATIONS:

ONE, THE CONDITIONAL USE PERMIT IS VOID IF THERE ARE ANY LOT SPLITS OR CHANGE OF OWNERSHIP OF THE PROPERTY;

TWO, THE TIME AND HOURS OF OPERATION WILL BE ALLOWED TO CONTINUE TO 8:30 P.M.;

THREE, THERE SHALL BE NO OUTDOOR SPEAKER SYSTEMS, STARTING GUNS, OR OTHER AUDIBLE NOISE-MAKING DEVICES;

THE LAST CHANGE IN THE STIPULATION WILL BE THE APPLICANT WILL BE REQUIRED TO BRING A LANDSCAPING PLAN FORWARD TO CITY COUNCIL WITH A MINIMUM OF SEVENTEEN, 24-INCH BOX TREES TO SHIELD THE PARKING LOT FROM EAST DYNAMITE BOULEVARD.

SECONDED BY COMMISSIONER SCHWARTZ WITH THE MODIFICATIONS THAT THE TREES ARE A MINIMUM OF 64-INCH BOX TREES AND THAT ALTHOUGH THE LANDSCAPE PLAN IS PROCEEDING TO CITY COUNCIL, THE LANDSCAPE PLAN BE BROUGHT BEFORE THE PLANNING COMMISSION FOR REVIEW.

Chairman Steinberg asked for discussion. Commissioner Barnett stated if his motion were seconded as stated, a discussion would not be necessary.

Ms. Galav noted that the stipulations regarding the correction to 96 students and the future primary access from 74th street were not included in the motion.

COMMISSIONER BARNETT AMENDED HIS MOTION TO INCLUDE A CORRECTION OF THE MAXIMUM NUMBER OF STUDENTS TO 96 AND THAT THE PRIMARY ACCESS WOULD BE FROM 74TH STREET ONCE DYNAMITE WAS COMPLETED, AS WELL AS A LIMITATION OF FIVE DAYS A WEEK OF OPERATION.

Commissioner Schwartz noted that he conditioned his second on modifications to the size of the trees, because a 24-inch box tree will take four or five years to fill in. Commissioner Hess stated that the Applicant agreed to 36-inch box trees, which he agreed would be a reasonable concession.

COMMISSIONER SCHWARTZ AMENDED HIS SECOND TO INCLUDE A 36-INCH BOX TREE.

COMMISSIONER BARNETT AMENDED HIS MOTION TO INCLUDE A 36-INCH BOX TREE.

Commissioner Barnett stated that a motion could not be changed with a second; a second is to approve a motion. Commissioner Schwartz opined that an amendment could be made during a second and had been done in the past. Ms. Scott clarified that in order for a second to change a motion the initiator of the motion would have to amend his motion to include the changes; Commissioner Barnett's motion still required a second. Commissioner Schwartz stated that his second was conditioned on Commissioner Barnett amending his motion; if he did not want to accept the amendments, he needed a second from someone else.

COMMISSIONER BARNETT MOVED FOR APPROVAL OF 6-UP-2006, ASSUMING IT MEETS THE CONDITIONAL USE PERMIT CRITERIA AS STATED IN THE PACKET WITH SOME AMENDMENTS TO THE

STIPULATIONS THAT WERE GIVEN BY STAFF IN REGARDS TO THE EMERGENCY VEHICLE ACCESS AND THE FUTURE PRIMARY ACCESS TO THE SITE ON 74TH STREET;

INCLUDING AN ADDITIONAL STIPULATION FOR NO LOT SPLITS OR CHANGE OF OWNERSHIP;

A CHANGE IN THE HOURS OF OPERATION TO INCLUDE A CLOSING TIME OF 8:30 P.M.;

AN ADDITIONAL STIPULATION FOR FIVE DAYS A WEEK MAXIMUM;

AN ADDITION THAT THERE WILL BE NO STARTING GUNS OR OTHER NOISE-MAKING DEVICES'

AND A LANDSCAPE PLAN TO BE BROUGHT FORWARD TO CITY COUNCIL WITH AT LEAST SEVENTEEN, 36-INCH BOX TREES TO SHIELD THE PARKING FROM DYNAMITE.

SECONDED BY COMMISSIONER SCHWARTZ, THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF SEVEN (7) TO ZERO (0).

11. 5-UP-2006 Salty Seniorita

Request by owner for a conditional use permit for a bar in an existing building located at 3636 N. Scottsdale Road with Downtown/Office Commercial District, Downtown Overlay (D/OC DO) zoning.

Vice-Chairman Heitel expressed concern about the number of restaurants switching from number 12 use permits to number 6 use permits. He recalled a discussion a couple of years ago regarding preserving certain characteristics of the downtown and inquired whether the neighborhood vision was changing.

Mr. Gray clarified that the issue in most cases was not a change in operation of the establishment but a compliance with State law. The State law has a percentage ratio of drinks to food sales of 40% food. The problem is food is less expensive than alcohol which causes many restaurants to fall into violation. Vice-Chairman Heitel noted his appreciation for the mathematical dilemma the restaurants were faced with, but feared the City was taking a leap of faith allowing the change.

Mr. Cummins reported that a series of stipulations had been attached to the case in order to address concerns. He reviewed the criteria that make an establishment a bar and noted that the Salty Seniorita did not fall into that category. He clarified that the hours of operation listed were wrong and a stipulation to allow for Sunday morning brunch beginning at 10 a.m. would need to be included in any motion made.

Nicholas Guttilla, attorney for the Applicant, addressed the Commission. Highlights of his presentation included a review of the history of the restaurant and their long-term business intentions. He explained that the Liquor Department

had issued a citation during their audit because of a 2% violation. He noted that in response to the citation, the restaurant raised the food menu prices in an attempt to bring the food sales up to regulation. The Applicant intends to continue to operate exactly as they have in the past. They have complied with all land use requirements for the conditional use permit and meet all of the restaurant criteria, with the exception of the 40% food sales.

In response to a question by Commissioner Schwartz, Mr. Guttilla explained that the crowds generally dissipate between 10:30 and 11:00. They shut down early when people start leaving. The food ratio changes from 11:00 until 2:00 in the morning. Sunday through Thursday food sales are between 55% and 58%, they do a tremendous volume on Friday and Saturday evenings.

Commissioner Schwartz inquired whether they would consider closing early or limiting their sales to no alcohol after 11:00 p.m.; he opined selling liquor after 11 o'clock and not carding, which was one of the stipulations of not being a bar, was a liability. Mr. Guttilla noted that a number 12 license allowed serving alcohol all hours as long as food was offered until 11 o'clock; he would resist changing the way they are operating as they are operating today.

Commissioner Schwartz noted that a number 6 liquor license allowed for them to become a nightclub. He expressed concern about problems in the future if the establishment were sold because the City does not want nightclub activity in that area of Scottsdale.

Mr. Guttilla reviewed that they were operating similarly to other popular restaurants in the area that stay open until 1:30 or 2:00 in the morning. He did not feel that they should be penalized because of a 2% glitch in the food sales requirement. He opined that the Salty Seniorita was being more than fair in their community responsibility.

In response to a question by Commissioner O'Neill, Mr. Guttilla explained that children accompanied by an adult can go anywhere with a class 12; with a 6 a person must be over 21 or be accompanied by an adult in an area where food is served; if food service is ended at 11:00 p.m. no one under 21 is allowed.

Commissioner Hess noted that he did not have a problem supporting the application because it was for a conditional use permit which could be withdrawn if they do not comply with the regulations and with the tone of the area.

In response to an inquiry by Commissioner Barnett, Mr. Cummins explained that the clause for a review at the end of every two years was typically required. The difference with this application is that staff suggested it be an administrative review with the zoning administrator rather than going back to City Council; any change of stipulations would go back to City Council.

Commissioner Schwartz inquired whether the Applicant would oppose returning for approval in the event they wish to transfer interests in the corporate doctrines, LLC's, or transfer title to land or corporation. Commissioner Barnett stated that subsection Q addressed that issue, "any change in operator, business owner at the subject location will require an administrative review by the zoning

administrator.” Commissioner Schwartz clarified that he wanted it to come back to the Commission in order to ensure that it would not become a nightclub.

Commissioner Hess opined that what Commissioner Schwartz was suggesting would place an unnecessary burden on the Applicant; requiring an administrative review endorsed by City Council would provide sufficient control.

Mr. Mike Merrill, South Scottsdale resident, addressed the Commission. He readdressed the issue of Next and reviewed what residents and business owners were thinking with that issue. They sent the Commission 40 emails, only ten of which made it to the Commissioners. He opined that restaurants switching to a 6 was becoming a continual problem in the Downtown. He reviewed complaints regarding problems with Salty Seniorita and other establishments in the area. He requested that the Commission table the issue until a plan can be compiled for the west side of Scottsdale Road.

Commissioner Barnett noted that there were no letters of opposition from the Downtown merchants included in the packet. Mr. Merrill stated that they were late in finding out about the application because they were in negotiations with Loco Patron who would be coming forward with a similar application soon. Letters of opposition would be included when the application is presented to City Council.

Commissioner Barnett noted that he was comfortable with the application because it was stipulated for review after two years. In the past applicants were able to get signed off for conditional use permits and never come back unless neighbors initiated a review. Mr. Merrill stated that he was comfortable with the review process, but would like to see it be more often than every two years.

Mr. Merrill noted that it was his understanding that State law trumped City laws, so if someone with a number 6 liquor license wanted to change their usage he feared there would be no recourse for the City.

Vice-Chairman Heitel agreed that a non entertainment district needed restaurants and surveyed whether the increased stipulations and requirements would be the right direction. Mr. Merrill opined staff needed to make distinction on the districts.

Commissioner Hess suggested that Mr. Merrill and his group take the issue up with the state legislators and suggest another category or another definition of licenses that is somewhere in between that puts the kinds of controls on businesses that is somewhere between a bar and a restaurant or redefines it so that current economies are reflected; it may be more efficient than trying to micromanage each individual establishment that comes along.

Mr. Gray pointed out that the Commission had not seen any new 6's in the last year-and-a-half because around 19 or 20 of them had not made it through the preplanning process. Staff is not encouraging new bars to locate in the Downtown area except in the entertainment district. The only applications that have been seen by the Planning Commission have been for restaurants that are in operation and have been issued violations by the state inspector.

COMMISSIONER SCHWARTZ MOVED TO APPROVE CASE 5-UP-2006 BECAUSE IT MEETS THE SPECIAL USE PERMIT REQUIREMENTS. THE APPLICANT MAY BE OPEN FOR BRUNCH ON SUNDAY AT 10 A.M. SECONDED BY COMMISSIONER HESS, THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF SEVEN (7) TO ZERO (0).

NON-ACTION ITEM

BEGIN VERBATIM PORTION OF MINUTES:

12. Revitalization - McDowell Road Corridor

13. Discussion on New Residential in south Scottsdale

CHAIRMAN STEINBERG: Okay. We've got two items that we have left and they are non-action items, but we are going to let the public speak because it is, I think, critical in moving this forward. One is the revitalization of the McDowell Road Corridor and the second is discussion of new residential in south Scottsdale that was put forth by Commissioner Schwartz. And I am going to have him introduce that.

COMMISSIONER SCHWARTZ: We're going to combine these two things. Thanks for coming out and everybody else here.

I don't want to be redundant, but I wanted to not just let you know, but everybody else know, why I initiated this conversation. Over the course of the last, I don't know, it's been ten years we've been trying to revitalize Los Arcos and we finally got ASU to put forth a phenomenal effort and it is quite the outreach program with the community. We had that come in front of us and it was successfully approved. Most recently we have heard a lot of dialogue in the community and the newspaper about residential at SkySong and I've been very disappointed by the tone of the articles and the debate about residential at Los Arcos.

If somebody could come forward, I'd like to put this up on the Elmo about some comments that I made on the June 29, 2005 hearing. Could somebody come put this on the Elmo for me? And could we blow it up so the first paragraph can be read.

So I queried about this negative response to residential in the area. And Mr. Meral expressed opposition, not necessarily to general residential but specifically directed to dormitory housing. It was made very clear that night there was no dormitory housing. In fact, it was a consensus, I believe, among the Commission that we emphatically wanted residential at SkySong. And on the Planning Commission report that night, it said key items for consideration: "proposal will create a knowledge-based research and development center that will allow commercial research, residential, and support retail uses." There is also a chart here of what would be allowed within the SkySong project, and you can see that chart. There are the key considerations. So the zoning allows for that, for the residential component. Here is multi-family residential.

So my purpose was since we were -- this Commission was so much in favor of residential there that, because it has become such a debate, I would propose that we send a letter to the City Council telling them that we wanted residential housing there,

non dormitory, and express our confidence in residential at the site. Frankly, I think the project is being hijacked right now. I think it is being hijacked by a few people that -- or by debate about what people thought they may have heard, but they really didn't hear. What they heard from this Commission was we want a residential there. And if there should be any debate it should be the Design Review Board, nowhere else. If there is an issue about design or what design of the residential is going to look like, go to Design Review Board and speak your case. But residential was planned in this area, we asked for it, and there should be no question about it at all. We need new residential development in south Scottsdale, period. There are no other places available for it, it's right here. And the success of the ASU Technology site will be residential.

So that's why I brought it here, and I propose that we send a letter reiterating what we approved that day, what we asked for. You weren't here, Kevin, you were on the Design Review Board. But we all talked about residential and wanted residential.

CHAIRMAN STEINBERG: Thank you, Commissioner Schwartz. Your presentation, Mr. Gawf.

MR. GAWF: Well, I think that was the presentation right there.

CHAIRMAN STEINBERG: Thank you, Mr. Gawf.

MR. GAWF: Actually, I had originally scheduled three or four weeks ago to come to you in the afternoon study session and give you an update on what's happening in the Scottsdale/McDowell corridor, because I've done this two or three times over the last year, year-and-a-half, and things are happening in that area. So let me do that. I've also added a few slides if you like about the specifics on SkySong once I heard that these two items were being combined, if you would like me to go through that. Given the hour I will make this brief.

This just shows the corridor of both Scottsdale Road and McDowell, but also shows the 42 acres of Los Arcos. And one of the points that you as the Planning Commission have made to me many times is this needs to be broader than just the 42 acres. Our goal is to revitalize the southern part of the city and those two specific corridors. And a lot of things have happened in the last year, and we will hand out this graphic.

But this is, not everything, but this really starts to show what's happening in this area. And I think good things are happening. And if you go from the right side with the Bill Heard Chevrolet improvement on Pima Road, go down McDowell Road and you see other private investments, private improvements occurring with Lowe's; as I said last night K-Mart never looked so good as it does today. It's under construction, supposed to be done by the end of this year or the beginning of next year.

Miller Townhomes, the little vacant property on Miller just south of Duke's Sports Bar in that little shopette is being redeveloped into condominiums -- I think a very nice project. Los Arcos Crossings I will talk about a little more in a second. McDowell Village Senior Center and apartments are almost finished; the Senior Center should be occupied by July or August of this year. So a lot of changes are occurring with new development along the area.

There's also reinvestment in the area, and I think the Motor Mile is a good example of that. The Motor Mile -- I can't remember the exact numbers, but I think in the first year with the common marketing, the sales tax increase was \$600,000 or \$700,000 over the previous year. And dealerships instead of talking about leaving that area -- and remember, we talked about this last time, that the area generates \$7 or 8 million of sales tax per year. So this is a very significant revenue source for the community and this part of the community. And unlike a year or two ago when dealerships were talking about where they wanted to move, they are now reinvesting in the area.

Another sort of reinvestment is Coronado High School. And I think the quality of schools in this area really determine the quality of the neighborhood, both the residential neighborhood, which then influences the McDowell Scottsdale corridor.

The red lines are indicating the major auto circulation paths with Scottsdale Road and McDowell. But on Scottsdale Road you will also see two other notations: one is Scottsdale Road streetscape improvements. As you may know we have about a million dollars a mile to improve the appearance of Scottsdale Road as a result of the 2000 Bond Issue. The planning for that is underway and you should be probably seeing something -- or the initial drawings, conceptual drawings should be available later this summer. So we are progressing on that. We'll be having neighborhood meetings; we will be meeting with property owners along Scottsdale Road, et cetera.

The other one is the notation at the top of the map that is the Scottsdale Road Commercial Corridor Study. One of the things that we talked about a year ago was the commercial zoning on McDowell and Scottsdale road being in many cases out of date. It was designed at a time when there was still a regional shopping center there, and this was the shopping center for a great portion of Phoenix/Scottsdale area. That has changed and one of the things we have is probably too much commercial zoning. So what is the change in land use, what should we do, what can we do? And so the Planning Department will be undertaking a study starting this fall looking at the corridor and what we can do and should do with the zoning code, with the other city codes that we have, exploring the possibility of an overlay zone along this -- at least the Scottsdale Road corridor, if not also the McDowell corridor.

The green lines indicate pedestrian bicycle circulation, because one of the things that was indicated as we worked on Los Arcos or ASU Scottsdale or now SkySong is that it shouldn't be a castle or an island separated from the rest of the community. It should be part of the community; and so this is showing different either existing paths or new paths that we are looking at connecting this site with the southern part of the City. And primarily SkySong with Indian Bend Wash and more importantly as far as the new connection with Papago Park to the west. So that was sort of the corridor.

One of the things that we also looked at was this area between Miller, Scottsdale Road, south of McDowell to Culver. And looking at that, not just the 42 acres that's SkySong, but the older shopping center that's to the east: Can the two be combined in some way to really create a major new opportunity at that location?

At the present time -- and if, Jason, you could indicate the area that I am going to describe I'd appreciate it, it's the area between 74th/Miller/McDowell to Culver, that square if you will. It's the Los Arcos Crossings Shopping Center. There are three or four or five different ownerships with the one on the southwest corner being the 3.5 acre

City parcel. There is one individual who now has an option on all of that property with the exception of two out parcels, and the City parcel obviously, but really controlling the area from 74th to Miller. We are working with him; you will probably see something later this fall. They are looking at retaining Basha's, upgrading it to be a Hayden and Indian School quality of Basha's, also putting some other neighborhood serving retail there and then putting residential for a mixed use project at that location. One of the things that is probably a good indicator of success, land values in the area have gone up, which then makes it more difficult to do assemblage and new products and things like this. But this is one that I think has a very exciting opportunity.

So very quickly that's a brief overview of the revitalization that is happening in the area.

As I said because of combining this item with Commissioner Schwartz's item, I have also added a few slides on SkySong, or what's been done with the ASU Scottsdale site.

This plan shows what you approved as part of the zoning last year. You did approve the zoning that included all of the things that are listed on the right hand side of the graphic, including residential, LEED-Certified for all the retail office buildings, first floor retail, we are doing a transit center plaza -- the various things that you see there.

One of the things that has been confusing as I talk to people is that there is a difference between the lease, which is a contract between the City of Scottsdale and ASU Foundation, and the zoning of the property which is the City of Scottsdale acting in its regulatory role. The lease we signed with ASU Scottsdale prohibits residential use on the 37 acres that they are leasing from us. And there were two major reasons for that: One is we didn't want dormitory student housing for fraternities/sororities, we didn't want this to become a residential extension of ASU. The second one was that we also want this to be -- and we are spending a lot of money to make this happen -- as a research and innovation center, not a multiple family or residential project. So we wanted to establish it so that the City Council had control when and if the land was ever used for residential purposes. So again that was the contract, the lease that we entered into with the Foundation, knowing that sometime in the future there was always the opportunity to change that lease, but that gave the control with the City Council.

Last year we went through the zoning process, and as we looked at the 42-acres based on the ad hoc report, good city planning, direction from the Planning Commission and other groups, we included residential as an allowed use. So there is no rezoning required, there is no that kind of discretionary action required if residential is desired to be placed on the SkySong property.

After the rezoning was approved last summer they then -- the developers, Higgins Plaza, came back with approval for Phase I and Phase II and this graphic shows those first two buildings. The total was around 315,000 – 320,000 square feet of office and retail, surface parking on both sides. And again, this is predicated upon the lease. You may recall that the lease indicated that the City of Scottsdale would pay for infrastructure improvements up to \$44.5 million.

However, the installing or constructing or paying for parking structures would not occur until one of two things happened, July of '07 or 450,000 square feet was built on the site; because we really wanted to get the project going before we spent the money for a parking structure.

So this is what was approved last December. A couple of months ago or so, the Applicant came to us and said, "Given the cost of building a surface parking lot; it doesn't make a lot of sense to build it. We are so confident that things are going to proceed quickly that we think in two or three years the parking lot will be ripped up and a parking structure will have to be built, so why don't we work together. Let us build some residential around the parking structure. We will front-end the parking structure and you will pay us in accordance with the lease agreement."

So that's one of the reasons we got into looking at the residential use of the property. I think the other is that the office and retail buildings under the lease are only required to build one building at this time; that is Phase I building, or the northern building. Because of the demand, they are looking at constructing both buildings at this time. So given what is happening there, the desire to have a mixed use project, they have approached us to incorporate residential into the project itself.

COMMISSIONER SCHWARTZ: Excuse me for one second, Mr. Gawf. I'm having a little memory lapse here maybe, because I don't necessarily remember a call, maybe Mr. Berry can tell us, about why the residential use was not put in the lease. I think the lease was written long before the plans were done and that is why for some reason it was not inserted. But we were assured here and I -- I tell you what, there are some things I do remember and there are some things I choose to forget, but one of the things I do remember is our assurance about residential on this site. And not that it was a card that the City was going to hold over SkySong, okay? We all agreed that the viability of this site was going to be to bring housing for people that could afford to come and work at this innovative center. And frankly it's not a right card to hold, it's not a right way to proceed, okay? We need to move forward with residential and not hold this above anybody.

MR. GAWF: And, if I could finish, I think the story will wrap up here. But let me just in response say, first, I know at least the thought process on behalf of the staff as we negotiated the lease. And it was, as I just indicated, that there was a concern that it become student housing, there was a concern that it would become just multiple family housing and not an innovation and research center. We wanted to make sure that that focus remained. Secondly, as we rezoned the property, we knew there probably would be residential on the 42 acres because we still retained five of the 42 acres; the City did. And one of the things we were looking at was residential. Third, the Ad Hoc Committee - - and I know after the Ad Hoc Committee when the zoning came here, the Planning Commission and then the DRB, Development Review Board, and I think the City Council all also talked about residential on the site. So I'm not implying that there wasn't discussion of residential, I'm saying there's a sequence to it. But for me the real question is -- and this just happens to show what they are requesting: to modify the lease to allow residential, to construct 325 residential units at this point in time. Under the zoning it could be as much as 800, but they would have to come back each time. And third, to do a parking structure that would be used for office and residential.

As I was talking to the Ad Hoc Committee last night I posed three questions that I think are the right questions. And going back and trying to track history is always difficult, because we remember different things. But I think the questions are: Is residential appropriate for SkySong? And at various times I think people have said, yes, it is appropriate for SkySong. Secondly, is the proposal as represented by the developer

complementary to the primary use, because this is still a research and innovation center? And then third, is again what we are looking at, is the buildings as being proposed, is that cutting-edge enough, is that attractive enough to be a complement to the SkySong project? So I think the question we've been asking ourselves and I think eventually the Council will ask is: One is residential appropriate on the 37 acres? And again the Ad Hoc Committee generally said it was. Two, is the proposal as represented by the developer, is that complementary to the research technology use? And third, is the quality of the residential project consistent with the quality expected at SkySong?

COMMISSIONER SCHWARTZ: Excuse me, Mr. Gawf. What are the answers to the questions?

MR. GAWF: Well, I think --

COMMISSIONER SCHWARTZ: I'm asking you. First answer that question. What is the answer to the question?

MR. GAWF: And I will. And let me say the questions were intended to be questions posed for the Planning Commission if you wish to answer them --

COMMISSIONER SCHWARTZ: We've already answered them, though.

MR. GAWF: -- but I will give it a shot. First question, is residential appropriate at SkySong? The answer is yes. I think mixed use makes a lot of sense. Let me go back if I can, because we've talked a lot about the 325 units. And I want to go if I can go to the one that shows, and I can't -- there's one that also shows residential that fronts on the proposed parking structures, and you can see it here in the cross-hatched areas. So the 325 in the southeast corner does provide a transition to the neighborhood to the south. I also think it's important to face all of the parking structures so that you are seeing office use, retail use, or residential use. So that it becomes in effect a small downtown where you are not seeing parking, you are seeing uses. So the first question, I believe residential is appropriate.

Second question is can it be complementary to the SkySong innovation technology purpose? I think the answer's yes. In fact, I think quite often in research technology centers the kind of employees that you have, this can be a very mutually beneficial kind of relationship. That people come for a period of time to work at the technology center, they can also stay on site, they can walk to the offices, etcetera; so I think there is a relationship there. I think it also adds a more urban feel to the project, and I think that's a positive. I would also say that I think it's important -- and this you didn't ask me, but I think it's important to extend the SkySong development over to the east to Miller and really make that a whole rather than just the 42 acres.

The third question is, is the quality of the project suitable for the technology center? And you don't have the plans here tonight, so it's hard for you to judge that. My comment at this time is, I don't think so, yet. They are working on it; they are meeting with the DRB tomorrow. I think that is one that needs to be continued to be worked on, to be modified, to make sure it is of the highest quality. You remember the discussion that we had when the first two buildings came through, the promises that were made about the quality of future buildings and I think that's important to make sure that that's adhered to.

So that's my answer to those three questions.

COMMISSIONER SCHWARTZ: Well thank you, Mr. Gawf. I just want to make sure that you are going to ensure, at least to me, -- I don't know how the rest of the Commission feels about this -- but you are going to ensure to me that this deal is not retraded. These people went through more heartburn than the creation of Oscar Meyer Weiner for 40 to 50 years, okay? This is too much brain damage. There is a new Council in tow and all of a sudden new personalities about what you may have thought should have been right for SkySong, and the previous Council thought for SkySong, and now there are new personalities that potentially could change what that vision may be. And I want to make sure that we are ensured that what we ask for, what our intent was, is delivered to that City Council and that we get a residential component here that will help complement it.

MR. GAWF: And, if I may, I think my answer to that earlier was, you need to look at it at this point in time, look at where they are and say do you think a residential component would add to the mission, would be complimentary to the SkySong purpose? If you do, I would suggest you state that. If you don't, state that and make your thoughts known to the City Council.

COMMISSIONER SCHWARTZ: But to me, Ed, that's retrading the deal. We already made that decision. We made that decision, if you read in the minutes that I showed -- that was the purpose of showing those minutes. We made a statement about residential, we already did that. So why are we going back and being asked to recast our vote, asking City Council to go back and recast their vote about whether or not it's right. You've already asked the question, why are we asking it again?

MR. GAWF: Then I must have misunderstood something, because I thought this was agendized tonight so that you could weigh in on the question of residential. And if I missed that point, I apologize for going through this.

COMMISSIONER SCHWARTZ: That's why I made the comment originally to start this off. I agendized it because I want to make sure that it's crystal clear at least for me, and if it's for the rest of this Commission great, and if its not. But the way I understood it, we wanted residential. We shouldn't be asking the question again, do we want residential? Is it right there?. We've already made that decision.

CHAIRMAN STEINBERG: Okay. Let's get more comments too, because this is important dialogue.

MR. GAWF: If I could just add to that. Yes, you are right. As I am thinking through your comments, because you made that decision as part of the zoning. Again, there is a separate action that has to be undertaken, and it's not a Planning Commission action. It's a contractual action that the City Council has to decide as part of the lease agreement.

COMMISSIONER SCHWARTZ: And that's my point that there is no reason why the lease should not be just unanimously approved, because we already made the decision in the zoning. It is already appropriate for the site. We want residential, that's why we approved the zoning with residential.

CHAIRMAN STEINBERG: We are not taking action though. We are just discussing.

COMMISSIONER SCHWARTZ: Discussing, correct.

CHAIRMAN STEINBERG: Okay. Commissioner O'Neill.

COMMISSIONER O'NEILL: That was going to be one of my first points is I think there was a couple questions here about what we're being asked. We are not being asked anything. We are just discussing the issue, as I understood it, of residential in south Scottsdale, which is much bigger in my eyes than just SkySong; I hope it is at least. And that we are not being asked anything, we are just entertaining some discussion about this; and that what is happening is that the proposed architecture and site planning is going to move forward in front of the Board that hears that, which is the Development Review Board. And if any of us have opinions, we should show up at that location to actually be able to have our voices heard.

And the lease, we have always known, and you are right, Commissioner Schwartz, that I wasn't on the Commission, I was on the Development Review Board at that time, and specifically asked the question -- I specifically, personally asked the question about knowing that the lease says one thing and that the zoning says something else and which trumps which? And it was very clear to me then, as it is now, that the zoning allows residential. However, residential cannot be built unless the lease is amended. And that's always been clear to me and that unfortunately, as I understand it, the lease was written prior to the zoning. The zoning then didn't allow residential therefore the lease would not have made sense to say "Well, we should allow residential in this lease," when it wasn't allowed in the zoning. So there's just a bit, I think of timing and scheduling going on there.

More importantly, I mean I just wanted to comment that it was incredible to hear two weeks ago, I believe it was, when I attended the open house for SkySong, just what a tremendous impact they have had, the success they have had, the movement forward. The fact that we are even at this point in time discussing Phase III of this project I think is an incredible success for the City, for the developer, for the whole southern area of Scottsdale. It appears they are well ahead of schedule. I think that's incredibly exciting. I think it's going to do more for residential in south Scottsdale and it's great, I think, at this time that they are considering at this time going to City Council to ask for the change in the lease for the parking and the residential and the other issues, and that we need to support that. I mean we, the community, needs to get together and rally behind the fact that this thing is moving as quickly as it is because of the success they've had.

Regarding the architecture, I mean that is again something that I personally have been involved in and am going to continue to be involved in, going to tomorrow's study session and then going, I think it might be July 13, on the Development Review Board, just because I had been a part of that and am going to continue to follow up on that. And specifically just because wanting to make sure in that realm what the DRB said and what I believe the community was promised, which is iconic architecture, which I think possibly fell short in Phase I and Phase II's approval. But yet we were promised Phase I and Phase II was this interior portion of the community and that surrounding it was going to be this hub of iconic architecture. And it's important for me to make sure, in an appropriate place, which is the DRB in this case, that that's where it's looked at. And I would hope that through those processes that we can continue to if there are questions about the architecture -- and this I'll bring up tomorrow and on the 13th -- that we can

continue to move the project forward and possibly look at other ways, if there are questions about the skin of the buildings, how we can continue to move the project forward, while also making sure the architecture meets everybody's agreed criteria.

CHAIRMAN STEINBERG: Okay. Could we open up a discussion and garner some community conversation and then we can all talk about some of the comments we hear. I think that's going to be important.

So we have some cards here. Gary Ley, is he still here? All Right, Gary. And you'll be followed by George Knowlton.

GARY LEY: Chairman Steinberg, members of the Commission, my name is Gary Ley, and I live right by Coronado High School, which is not too far from the SkySong development.

Commissioner Schwartz is absolutely correct; this is being hijacked by just a small group of people for their own means. Residential should go forward on this property. It is a hinge pin to the rest of the facilities down there along the McDowell area. If we do not have residential in the area you are going to be looking at a big, ugly, above ground parking garage with no amenities. I don't think you want that, and I know that me and the rest of my residents in my area don't want it either, with the exception of maybe one person.

So as it stands now, this should move forward. This should be brought to its fruition instead of having anymore balkanizations or horseplay with it and it should go forward as it was planned to. Residential has always been discussed, as Chairman Steinberg well knows being part of the Ad Hoc Committee. The open house, standing room only, well received by the population, well received by the public. Other than the open house, last night, very few attendees except for maybe a small handful of people that are against the project. That leads me to believe that the residents of this city have heard enough and they want to move forward with this.

The ad hoc last night with the exception of two members approved to go forward with the residential, and correct me if I'm wrong, Chairman Steinberg.

CHAIRMAN STEINBERG: You're correct.

GARY LEY: There is no more discussion on this. The only thing that we need to do is amend the lease. And contrary to what people may say, amending the lease, which is a secondary document, is not a referendum item. It's not a legislative action. I'm sure people would disagree with me. It's a simple amendment. We need to move forward on Council and get this thing off the ground and get it back on track and moving forward.

Thank you.

CHAIRMAN STEINBERG: Thank you, Gary. George. Followed by William Lindley.

GEORGE KNOWLTON: My name is George Knowlton; I live over by Mohave School.

Commissioner Schwartz, you kind of come down on us pretty hard. I think you need to remember that this city owns more than half of that property. And as a resident I have

every right to re-ask you questions and to re-ask this Board questions without your haranguing.

That being said, and I am saying that without malice, in the beginning, and I was there from the beginning, the residents did not want residential there. That's why the lease didn't have residential on it. Later on John did his job, he got what he asked for, which was residential zoning. That's fine; he did what he was supposed to do. We assumed that you people, when the residential came up you would say, "Okay, we're into this for a \$130-million, they're into it for \$87-million, there's a \$55- or a \$53-million dollar difference there. We should take any residential that's put up and we should recover money with that." Because everything that was set up was set up with only the original buildings.

So you guys should have looked at that and you missed the boat there. And I don't blame you, because staff has to give you the information. But you should have looked at that and said "Wait a minute, we have a new component here, how can we recover more money for this city? There is going to be no recovery for 200 years on this thing except the \$81 million. And what they are saying now is that by rushing this they are going to save us \$3.5 million. So that takes us down to \$50 million we are in the hole on this project in dollar numbers. We need to renegotiate on the new lease. Yeah, there is a train coming down this track. I want a ticket on it, but I don't want to have to pay for it."

And that's what is happening here. We are giving them all of this for nothing. We need to get some money back out of that. This is a revenue stream for them and it is not for us. They are telling us it's 50% of the net. What the hell's the net? How do we know what that's going to be, it could be \$2.98 for all we know. There is no way to know. We don't know if they could ever sell those for condos, which as a former commercial broker, I know they can. We need stipulations to cover that.

There are other things. The Housing Board, your City Housing Board, asked specifically if there was ever going to be residential in this unit, and if there was they wanted to know about it. In their minutes is all of that, which says "No, there would never be residential." And they have not been contacted to date. No one has said a word to them. Talked to Nancy Cantor at the meeting, she says it's in the minutes, they were never asked. Got that down.

Now, the other thing is we are talking -- everybody says 325 units, really it's 805. I'd like to see that capped; that is a very dense area. We have residents now that complained about the possibility of density clear back when it was going to be a hockey arena. They complained about the height, they complained about all these things. That's why we wanted to talk to you again. We need to get some money out of those apartments as they put them up, I'd love to see them capped.

There's many other issues that I could come to. You guys have already made a decision that's going to have to go to the Council, but you could very well recommend and redo your thing that says "If we are going to put the apartments there, we need to recapture some more of that \$53-million that we are in the hole for," which we will be, folks.

Thank you very much.

CHAIRMAN STEINBERG: Thank you, George, appreciate it.

One comment, George, before you go.

COMMISSIONER SCHWARTZ: Our Board doesn't have the purview to discuss the business issues. We are talking land use here. The City, we voted on residential; we wanted residential; we asked for residential; we need to get residential.

CHAIRMAN STEINBERG: Thank you very much.

William Lindley, followed by Rita Saunders.

WILLIAM LINDLEY: Thank you Mr. Chairman, Commissioners. I'm William Lindley, 8550 East McDowell. I moved to Scottsdale, having been in the Valley for about ten years, I moved to Scottsdale about five years ago because I wanted to be, unlike where I was outside of Mesa, somewhere that had City services and that had the urban feel and accessibility of transit. And in speaking with the people who live in my area, there across from what used to be Smitty's, now going to be the Senior Center, I believe, and the people that I have talked to in my area, we see the residential there as part of mixed use. Having grown up in Boston, I see that mixed use, and especially with Scottsdale Road which has been approved as a high capacity transit line on there, I think that is going to be a huge asset to the city. And I already see the changes that are already happening as tremendously positive to the city and as a big value to the community.

So I just want to say that I really support the residential in the area and the people that I have spoken to in my area also support it. Thank you.

CHAIRMAN STEINBERG: Thank you very much. Rita.

RITA SAUNDERS-HAWRANEK: For the record, it's Rita Saunders-Hawranek, 5605 North 78th Way, Scottsdale, Arizona. I'm not here because of Ad Hoc. I'm not here because I think that residential is a terrible thing or a great thing. I'm here as Co-Chair of the Scottsdale Coalition tonight. As a Coalition we have questions about this particular residential, at this particular moment, on this particular site. It doesn't match an overlay, it doesn't match anything that the Housing Board has ever come down with, it does not address traffic, compaction, congestion in the neighborhood around it. And certainly as a member of ad hoc I was very much in favor of residential redevelopment throughout south Scottsdale. I don't recall ever being specifically asked about the site, other than its relationship to Los Arcos Crossing where we really thought residential loft retail would be kinda cool, and a hotel on the site, which we thought would be kinda cool.

I'm not here as a city planner, I'm not here as a screamer and shouter. I'm here simply to ask you people sitting there, as Chairman and as members of this Commission to ask the City to give this some time. Nobody likes to feel like they've had something rammed down their throats. The City goes on vacation for six weeks, why cannot developers, residents, and Commissions if hopefully you're around, sit down and parse this out together, reason it out together, and make it work in a way that will work.

And, Mr. Schwartz, in direct response to something you said earlier, there was a lady named Darlene Peterson who stood here that night and said, "How can you and a PUD allow this to happen as residential on a site where we have been promised no

residential?" And she was told that doesn't change. So she left this meeting believing there would be residential in the area, but not on that site. So clarity is something that has not been very good on either side or among any of the parties in the last seven months. With that, I thank you.

CHAIRMAN STEINBERG: Thank you very much. Timothy White.

Is Sheldon Sigismund still here? No? Sheldon is on the City of Scottsdale Housing Board and he had requested to be informed of anything related to housing on this site, and Mr. Gawf, could you do that for us? Thank you.

TIMOTHY WHITE: Hello, my name is Tim White. First I want to thank you for actually voting this through. I think it's an amazing thing. I don't want to be too redundant. I spoke yesterday, so I do apologize to Steve Steinberg for this. But I've been a resident of Scottsdale, I went to Hohokam High School, my family has been here all my life.

We've seen Scottsdale grow something beautiful -- actually nationally you can go anywhere, some of the greatest cities in the world such as San Diego and people go, "Oh you're from Scottsdale," and with a slight bit of jealousy. But the problem is they're not talking about south Scottsdale, they are talking about north Scottsdale, they are talking about Old Town Scottsdale. See, south Scottsdale won't have a problem with traffic; certainly if we don't approve things like this. No, there will just be more businesses that are vacant, empty parking lots, more check cashing stores and empty lots. They need to be vitalized again. And that's why I am so passionate about taking time out of my day; I know a lot of young people don't. I have to speak up because I want to see this grow, I want to see this happen.

I mean, when you look at things such as the institution that's in San Francisco, there's housing. It's important. It's important for these people that are participating with some of these major technology companies to be able to house their people with a respectable housing; something they can be proud of, contemporary and modern. Not apartment, Sycamore Creek up Thomas Road with shoddy plumbing, bad carpets, and horrible curb appeal, but something that is absolutely invigorating.

Here are some of the brightest minds in the world and they have opportunities to go anywhere. So let's make them be proud that they are going to be in south Scottsdale.

That's basically all I really have to say. Thank you for taking your time out. And again, there is a voice behind you, Commissioners and Chair, that gives you a pat on the back saying thank you very much for seeing this vision all the way through.

CHAIRMAN STEINBERG: Thanks Tim. That closes the public discussion.

Commissioners. Ed, you have some more comments?

MR. GAWF: I was just going to answer a couple of questions that were raised. And one was the issue on contractual issue of the lease, the financial aspects of it. And I think someone indicated correctly that really the role of the Planning Commission is to look at the land use, not the financial part of that. That will be something that City Council will look at.

Secondly, the City Housing Board, I will follow up with them and actually schedule a time that I can make a presentation to them.

The final thing I would say, and it's something that I didn't mention in my presentation, I try to always do it because I think it's very important. For me -- the main thrust of this is the research and innovation center. So one of the ways that we have proposed that they can get additional residential is as they build the office and retail component, they get additional residential. For example, there's 325 units in this phase, they are building approximately 320,000 square feet of office and retail. So that they'll, again, it will truly be a mixed use, not one use or the other.

The other point that I didn't make that I think is important is that the 1.2 million square feet of office and retail that we've always talked about will occur. The residential use -- and I think we discussed it at the Planning Commission as we were looking at the zoning stip -- the density for the residential is calculated differently and is not part of the 1.2 million. So there will be the residential units of whatever number as well as the 1.2 million square feet that was originally promised as part of the research and innovation center.

So with that I'd be happy to answer any questions you might have.

CHAIRMAN STEINBERG: You know, George brought up an interesting point. So what I'm gathering from all this is that the 1.2 million is part of the original deal and the 805 residential units and the income therefrom is the gravy for the developer. Do we not have any part in that ?

MR. GAWF: No. We are discussing that, because you're right. The way I think of it and it's pretty simplistic, but I think of it as two separate buckets. One bucket is the original lease agreement and the financial arrangements we made with that. They are now asking for residential and so we are talking about what is the financial benefit to the City of doing that. And it could be accelerating construction; it could be lowering some of our obligation. There's several things we can look at, but that's part of what City Council will look at as they review the lease.

CHAIRMAN STEINBERG: And the parking that's been proposed with the residential, to soften the parking, that parking will satisfy the parking requirements for the research and development and the retail plus the residential; there won't be any parking issues?

MR. GAWF: Yes. It's intended to be 900 to 1,000 spaces. About half of them will be for the residential component and about half will satisfy the parking need for Phase II building, the southern building that's next to the proposed residential and the structure. So it will satisfy both.

CHAIRMAN STEINBERG: So they're building 325,000 square feet in Phase I and II, and parking will be at four per thousand thereabouts?

MR. GAWF: Actually it's one per, I think, 300. 33 per thousand is our requirement. And part of what we need to see actually -- and we haven't gotten into this yet, we will with experience -- is what is the benefit of a shared relationship? Because obviously there's going to be plenty of parking for residential overflow at night and maybe some of that

overflow during the day could be used for the offices. So there is a shared parking advantage to having mixed use.

CHAIRMAN STEINBERG: So how much parking is in the initial phases where residential is being proposed?

MR. GAWF: Around 500. It's actually like 530 spaces or something like that.

CHAIRMAN STEINBERG: And how much for the technology center?

MR. GAWF: Around 500 or so, and we're still looking at those numbers.

CHAIRMAN STEINBERG: So that's about 1,000 spaces?

MR. GAWF: Yes. Yes, 900 to 1,000 spaces.

CHAIRMAN STEINBERG: I see.

MR. GAWF: And you have surface parking on the streets. So we are looking at all of the parking in the area as we calculate it.

CHAIRMAN STEINBERG: And as far as the traffic impact on the residential?

MR. GAWF: You may recall that as part of the original zoning review of Phase I and Phase II, we hired an outside transportation consultant, Parson Sprinklerhoff, to do an independent traffic analysis. They did that. They made recommendations on what changes need to be made to accommodate the traffic. We've asked them to update that with the additional residential; so we can look at that. I've seen some preliminary numbers, I just saw them today in fact, and it looks like there may need to be some improvements made, but the existing street system can handle the additional residential traffic.

We have to remember -- and actually this is a good site -- that ten years ago there was a regional shopping center with all the traffic being generated by that several hundred thousand square feet at this site. And the roads were sized appropriately to serve that regional shopping center need. So we are very fortunate from a road standpoint that McDowell and Scottsdale Road are good thoroughfares that have good capacity.

CHAIRMAN STEINBERG: Thank you. Commissioners.

COMMISSIONER HESS: Ed, I have a question. Could you explain to us what the sudden urgency is and why there's so much pressure if you will to accomplish this instantaneously as it were. And then I have a comment or two.

MR. GAWF: The sort of time issue -- and again, let me preface this comment with saying doing it right is always the best thing. I mean that is the first thing we have to do, is do it right. But the time pressure is the fact that -- actually if we can go back one to the schedule because I think that shows it.

Phase I building is getting ready to start construction, that is the 158,000 square feet on the north side of the boulevard. The second one will start in four or five months, so this

fall. The parking for the first building will be surface parking north of the structure. Parking for the second building either needs to be surface parking or structure. If it's a structure, in order to be online when the building is ready to be occupied, design work needs to start fairly soon; July, August, September. And so that becomes the sort of driving force from a time standpoint. And the thought is -- and again I think the comment earlier is right, you need to step back and look at the big picture, but still every dollar does count and we are looking at \$2 to \$2.5 million or so for building that temporary surface parking lot to the south. And a parking structure we are assuming around \$12 million for a thousand-space parking structure.

So as we look at it and think about is it better to invest in a parking structure now rather than a temporary surface parking lot that will be torn up three or four years from now and replaced with the parking structure? we said "We owe it to the community to bring that decision forward. Let the community decide -- represented by the Council, decide on this issue rather than making a staff decision." So that's what's I think driving it from a time standpoint.

COMMISSIONER HESS: Why does that force the issue of residential? I mean, I understand, I'd just like you to clarify that so we're not --

MR. GAWF: Yes. And the proposal is that the structure would be clad, if you will, with residential buildings. So you have to design it to have mechanical ventilation, you have to design it to meet the firewall codes, etcetera. So whether it's designed to have residential adjacent to it or be a free-standing structure becomes a fairly important decision early on. A parking structure can be built that doesn't have the residential around it, but if you do want to have the residential around it, you have to design the parking structure in a special way.

COMMISSIONER HESS: Okay. I just have one or two brief comments, and I think Commissioner O'Neil was very succinct and very clear. I'm very supportive of having residential here. I have had the dubious pleasure; I wouldn't even call it a pleasure, of seeing the initial design for these residential units. I wouldn't call it iconic, maybe ironic. I really can't think of a word to describe it, and I think if we are going to move this forward, you keep referring to having world-class design and so forth, we do, its world lousy class design, what I saw. That isn't the purview of this Commission; it's the DRB's. I unfortunately can't be there tomorrow. Kevin, you'll speak up and relay loudly. And I would like to see this move forward, but I would also like to suggest that this project design be given really serious consideration and that it not just be shoved through because we need to get it done, sort of the way SkySong was.

If this is going to be world class architecture lets make it that. Nobody's asking to redesign the interior of these buildings, but the exterior of them is repulsive frankly. Sorry, no offence to the architect. Maybe the blame falls on the developer who's not putting up enough money and reaching into our pockets for a lot of profit; and I would object to that strenuously. His feet need to be held to the fire; he's going to make a lot of money here and we are giving him 125-million dollars to play with; I think he should be held to an extremely high standard. So I hope the DRB takes that consideration very seriously. And that being said I don't really have anything else to add at the moment.

CHAIRMAN STEINBERG: Thank you. Commissioner Heitel.

VICE-CHAIRMAN HEITEL: Yeah, just a few brief comments. Ed, very timely and thorough update, I appreciate those comments and Ric reminds me I've got to be brief. But I'm not surprised, I'm glad to see the residential component coming. I think it's timely. The process I'm sure is very frustrating for a lot of people, but I'm reminded as we sit here that I think my true definition of purgatory would be being a developer with a city government as a partner. So that said, this is a natural process. It's frustrating, but that is the nature of things. Clearly Higgins Plaza knew that, they're big boys and they are not being hijacked, this is just the way it works when you have to do business in this horrible sort of public process; but that's just the way it is.

I think the City made a good decision early on in holding back that trump card on the residential. The property was clearly zoned and the intention was there, but they held that trump card. Ultimately the City Council will have the ability to ferret out the details as you're working through them and fine-tuning some of the economic issues. And that's a good process, so the process wasn't hijacked from us as citizens. So I think you've done a good job there. I'm happy to see Kevin O'Neill and Steve Steinberg still involved in the architectural part of the thing, because as I think Commissioner Hess stated, I think ultimately architecture is going to be the key to the success or failure of this project; and that standard has to be absolutely extremely high.

Good job and thanks for your update.

CHAIRMAN STEINBERG: Thanks Commissioner. Commissioner Steinke.

COMMISSIONER STEINKE: Yes. Not only will Kevin be there tomorrow, I believe, but I am the representative from the Planning Commission on DRB tomorrow. And I have taken these last 45 minutes here to understand and appreciate both the vision and the passion that we want to represent before the DRB as it comes up tomorrow or wherever it comes up. So I just wanted to affirm to the people here that in the ways that I can I'll express that passion, and that interest, and enthusiasm, and certainly the focus on the vision. And where we can expedite we will, but where we have to do it right we will also do that. Thank you.

COMMISSIONER BARNETT: Mr. Gawf, you have a new record. Other than me going to time out in second grade for getting in trouble, that was the longest three minutes of my entire life. So thank you for setting a new standard for me.

MR. GAWF: I'm glad I was able to do something for you tonight.

COMMISSIONER BARNETT: Having said that, I mean I think Commissioner Heitel makes some good points. I mean, this is just a nightmare from the get-go and it has nothing to do with the process; I think the process is unbelievably frustrating just from a pure developer standpoint. And then when we get involved with it and we are on both sides of approving architecture, approving flow, as well as being a partner, as well as being involved in every aspect, it's just a nightmare from the get-go.

Having said that, I'm a huge fan of this. I think this is one of the best things the City has done in a long time. And when I'm sitting up here, I'm doing my little two bits as a volunteer, but I am really looking to you as Assistant City Manager to negotiate some decent terms and look out for my interest as a City of Scottsdale citizen, of looking out

for my investment, my taxes and really taking into consideration a lot of the comments that Mr. Knowlton has brought up over here.

And, you know, it's frustrating because we are negotiating contracts that are moving around, we are negotiating architecture that's moving around, we are negotiating site plans that are moving around, we're negotiating an entire section of the City all at one time, and it's just tough. And so I'm sure you've gotten very little thanks out of this whole thing, Mr. Gawf. But I thank you for tolerating the whole process and putting up with frustrating people and strong vocal people like Mr. Schwartz here and Mr. Knowlton and some of the other people that we have involved in the process.

Anyway, I'm glad that we are moving forward. I'm glad with the developers we've picked. I think the main complaint that everybody's had is with the architecture on the first go-round and I think they're definitely on notice that there's some people looking over their shoulders at this go-round.

Anyway going forward, thanks for all you're doing.

CHAIRMAN STEINBERG: Commissioner Schwartz.

COMMISSIONER SCHWARTZ: Thank you. I just want to make clear that my comments were related to the use and nothing other than the use. And my comments about being hijacked is simply because of all the articles I've read in the paper about no residential, no residential, no residential. We want a residential.

So my purpose and goal was to have that discussion here so that we can deliver a message whether it's just the minutes of this meeting or a letter that we send collectively from the Planning Commission supporting residential use. There are other things that we have to do to protect our city. Design is number one of them. The financials, I wasn't part of the financials on that project, I don't know how they work; it wouldn't be for me to comment. But I am commenting about residential. I want residential. Sounds like the rest of this Commission wanted residential at the time, sounds like we want it now. And I think its important that we support our City Council and -- they've said in the past, we want to hear from you, so I think this is the perfect opportunity for us to send a one line letter from the Planning Commission that says "We unanimously support residential at SkySong." That's it, that's all it has to say. They can work out the details of everything else.

COMMISSIONER BARNETT: And I would completely agree with that. And Mr. Gawf, you asked the rhetorical question earlier, you were asking us if we support residential. I think in our minds there really never was any question. We always pretty much assumed it was there. We remember the conversation; it was in all of our packages. So you asked the rhetorical question, but I think we all fully want residential there.

The comments earlier about traffic and congestion, that's part of the decision making process that goes into this site and we pretty much assume that residential is going to be there. So if it needs to be a line from us -- I think just a copy of the transcript from tonight, from the section, if we just handed that over as part of the City Council meetings that would probably look more appropriate. But, I think we personally give you support and we give City Council support and we'd like to see that as a portion.

CHAIRMAN STEINBERG: Absolutely. Just to sum up quickly, I know it's late, a mixed-use project without residential is not a mixed-use project. And coming from having lived in the largest mixed-use project in the world, called New York City, I think this is a great urban site.

I am going to be really, really tough on the architecture coming up. I was kind of pushed in a corner on the first phase and wanted to get things going for the sake of time, but the results are mundane and a lot of people have echoed that. Anything coming forth will have to be more than just quiet architecture as Harry Karp had coined it; it's got to be exceptional architecture.

I was in San Francisco this week and I saw exceptional architecture; had a nice experience walking the streets. And the mix of residential and commercial and retail just gave you that vibrancy which is missing in this town, which will be here in the next few years.

So I agree with my colleagues and we are going to send a strong message to City Council, we support residential. We'll be on top of them and ensuring the project is the best it can possibly be. And we are going to be in the developers face from this point forward.

MR. GAWF: Thank you, Commission. I might suggest, since this is listed as a non-action item, that you use the minutes as an indicator of your sentiments to the Council and we will, I'm sure, do that and pass it forward as part of the package that goes to the City Council.

CHAIRMAN STEINBERG: You bet.

COMMISSIONER SCHWARTZ: Mr. Gawf, thank you for your help.

END VERBATIM PORTION OF MINUTES

ADJOURNMENT

With no further business to discuss, the regular meeting of the Scottsdale Planning Commission adjourned at 8:48 p.m.

Respectfully submitted,
A/V Tronics, Inc.